

# In the Supreme Court of the United States

OCTOBER TERM, 1918.

HENRY FREYGANG AND ALBERT A.

Trocon, partners, doing business under  
the firm name of the Midland Bridge  
Company, appellants,

v.

THE UNITED STATES, RESPONDENT.

No. 480.

## APPEAL FROM THE COURT OF CLAIMS.

### BRIEF FOR RESPONDENT.

### STATEMENT OF THE CASE.

Respondent accepts the statement of the case set forth in appellant's brief herein, pages 1 to 10, inclusive, with the following addition: The case of *Russell Motor Car Company v. United States* is set forth in the transcript of the record in the Supreme Court of the United States, October term, 1922, No. 485.

The instant case was decided upon the theory of the Court of Claims in the Russell Motor Car case, which case is set forth in the transcript of record in the Supreme Court of the United States, October term, 1922, No. 485. The instant case is to be heard in connection therewith.

**ARGUMENT.**

The claimant in its brief herein has set forth four specifications of error, all of which said specifications are answerable by the theory set forth in the brief for respondent in the case of *Russell Motor Car Company v. The United States*, *supra*, based upon the rule of law that contracts with the United States are so made with reference to the established law of the land, and should be so understood and construed unless otherwise clearly indicated by the terms of the agreement.

*Wilson v. Rousseau*, 4 How. 646, 685.

*The West River Bridge Co. v. Dix*, 6 How. 507, 532.

*United States v. Boisdore*, 11 How. 63, 88.

*Rees v. Watertown*, 19 Wall. 107, 121.

*Ogden v. Saunders*, 12 Wheat. 213, 297.

The power of the President under the act of June 15, 1917 (40 Stat. 182), was delegated to the Shipping Board by Executive order under date of July 11, 1917. (Rec. p. 28.)

Counsel for the United States believe that the opinion, in the case of the *Russell Motor Car Company, appellant, v. United States, respondent*, October term, 1922, No. 485 (Rec. pp. 131-144), of the Court of Claims, delivered by Downey, Judge, and concurred in by Hay, Judge, Graham, Judge, Booth, Judge, and Campbell, Chief Justice, is sound and adopts the reasoning contained therein as its argument against each and every specification of error set forth by claimant in its brief.

The judgment of the Court of Claims should be affirmed.

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*Solicitor General.*

ROBERT H. LOVETT,

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ALFRED A. WHEAT,

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ALEXANDER H. McCORMICK,

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